IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3570 OF 2006

Rakesh Shankar Gaikwad Applicant
versus
State of Maharashtra Respondent

Mr.S.Shivarkar for applicant.
Mr.P.A.Pol, APP for respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 19th October 2006

PC :

1. The applicant has been arrested on 13th April 2006 by Swargate Police Station, Pune in connection with CR No.297 for the offences punishable under sections 120(B), 143, 147 to 149, 302, 506(2) of IPC.. The deceased had been to a Juice Centre at Sahakar Nagar, Pune. The complainant was with him but when the deceased was inside the Juice Centre/Hotel, the complainant was standing outside. The deceased was beaten by about 7 to 9 unknown persons, according to the complaint, by Koita and Sattur.

2. The statement of the complainant Nitin Ghone

is perused by me with the assistance of learned advocate for learned APP. He has not given details of the persons in the assault.

3. However, the affidavit filed by the I.O. before me clearly states that as far as applicant is concerned, all that is recovered is one Mobile Phone and one Indica Car/vehicle which is also disputed by the applicant's advocate. That apart, there are no recoveries of any weapons. The complainant so also others do not name the applicant as being involved in assault.

4. However, the apprehension of the prosecution is that the prime accused Parshuram is absconding. The applicant is his close associate. The applicant would, if released, immediately get in touch with said Parshuram and it is most likely that both would be absconding and would not be available at the trial. Besides this, there are two cases pending against the accused-present applicant. He has no permanent place of residence. In such circumstances, bail should not be granted.

5. Having perused the application and the annexures thereto including statement of the

complainant and the affidavit filed in reply, in my view, stringent conditions being imposed, the applicant's case for bail can be considered. Once the investigations are complete, charge sheet is filed and there is a limited role attributed to the applicant, he deserves to be enlarged on bail. However, I am conscious of the fact that there are serious apprehensions and hence I am imposing following conditions as well.

6. ORDER :-

(i) The applicant shall be enlarged on bail in connection with C.R.No.279 of 2006 registered with Swargate Police Station, Pune subject to furnishing a personal bond of Rs.10,000/- (Rs.Ten thousand only) with one or two local sureties in the like sum;

(ii) The applicant will not be released unless he furnishes proof of his residential address, as mentioned in the cause title of this application or otherwise, and shall not change the residence without prior intimation to the I.O;

(iii) The applicant shall report to Swargate Police Station, Pune once in a week on every

Wednesday between 05.00 p.m. to 07.00 p.m. till conclusion of trial;

(iv) The bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence;

(v) The applicant shall co-operate with the Trial Court for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail;

(vi) Any observation/s made in this order shall not be constructed as any finding or any expression of opinion on the merits of the case at the time of trial;

(vii) Application is disposed of in above terms.

(S.C.DHARMADHIKARI, J.)